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CRIME PREVENTION AND CRIMINAL JUSTICE

United States of America: draft resolution

Prevention of alien smuggling

The General Assembly,

Concerned that criminal organizations that illicitly profit by smuggling humans and preying on the dignity and lives of migrants contribute to the complexity of the phenomenon of increasing international migration,

Recognizing that international criminal groups often convince individuals to migrate illegally by various means for enormous profits and use the proceeds from smuggling humans to finance other criminal activities, thus causing great harm to the States concerned,

Recognizing also that international organized crime is increasingly active in smuggling individuals across national boundaries and uses the proceeds from smuggling human beings to finance numerous other criminal activities,

Aware that such activities endanger the lives of those individuals and impose severe costs on the international community, particularly upon certain States that have been called upon to rescue and to provide medical care, food, housing and transportation for these individuals,

Noting that smugglers, particularly in the State of destination of alien smuggling, often force migrants into forms of debt, bondage or servitude, often involving criminal activities, in order to pay for their passage,

Convinced of the need to provide humane treatment and protect the full human rights of migrants,

Recognizing that this illegal smuggling activity has high social and economic costs, contributes to official corruption and burdens law enforcement agencies in all States where illegal aliens transit or are found,

Recalling relevant international agreements and conventions, including the International Conventions for the Safety of Life at Sea of 1960 1/ and 1974, 2/ and the Protocol of 1978, 3/ which establish specific safety standards for certain passenger ships, require each State party to take the necessary steps to ensure that no vessel covered by the Conventions and flying its flag is permitted to carry passengers on international voyages unless it meets the standards established by the Conventions, and require each port State party to prevent a foreign flag passenger vessel from sailing from its port when the condition of the ship or of its equipment is not in compliance with the Convention,

Recalling also the undertaking of States parties to the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, signed at Geneva on 7 September 1956, 4/ to take all practicable and necessary legislative and other measures to bring about progressively and as soon as possible the complete abolition or abandonment of the practice of debt bondage,

Recognizing the sovereignty and territorial integrity of States, including their right to control their own borders,

Concerned that alien smuggling undermines public confidence in policies and procedures for immigration and for the protection of refugees,

Noting that alien smuggling can involve criminal elements in many States, including the State or States where the smuggling scheme was planned, the State of nationality of the aliens, the State where the means of transport was prepared, the flag State of any vessels or aircraft that transport the aliens, States through which the aliens transit to their destination or in order to be repatriated and the State of destination,

Taking into account the efforts of the United Nations High Commissioner for Refugees, the International Organization for Migration, the International Civil Aviation Organization and the International Maritime Organization in responding to requests from States for assistance in dealing with alien smuggling,

Emphasizing the need for States to cooperate urgently to thwart these activities,

1. Condemns the practice of alien smuggling in violation of international and national law and without regard for the safety, well-being and human rights of the migrants;

1/ United Nations, Treaty Series, vol. 536, No. 7794, p. 27.

2/ Ibid., vols. 1184 and 1185, No. 18961.

3/ Ibid., vol. 1226, p. 237. Protocol relating to the International Convention of 1 November 1974 for the Safety of Life at Sea (with annex, appendix and Final Act of the International Conference on Tanker Safety and Pollution Prevention, 1978. Concluded at London on 17 February 1978.

4/ United Nations, Treaty Series, vol. 266, p. 3.

2. Commends those States that have cooperated to combat alien smuggling and to address specific incidents where smuggled aliens have needed to be processed in accordance with international standards and the domestic laws and procedures of the State concerned and returned safely to appropriate destinations;

3. Urges States to take appropriate steps to frustrate the objectives and activities of alien smugglers and thus to protect would-be migrants from exploitation and loss of life, inter alia, by amending criminal laws, if necessary, to encompass alien smuggling and by establishing or improving procedures to permit the ready discovery of false travel documents supplied by smugglers;

4. Requests that States cooperate in order to prevent the illegal transport by smugglers of third country nationals through their territory;

5. Also requests that States make special efforts to prevent their airports and flag air carriers from being used by alien smugglers;

6. Reaffirms the importance of existing international conventions in preventing the economic exploitation and loss of life that can result from alien smuggling, and calls upon all States to implement and enforce these conventions fully and to consider ratifying or acceding to them if they have not yet done so;

7. Requests flag States to cooperate in the fight against alien smuggling, inter alia, by exchanging information on smugglers; identifying and monitoring suspect vessels; withholding certificates of national registry of ships and licensing to masters involved in alien smuggling; stopping, boarding and searching of their flag vessels and, when appropriate, authorizing the requesting States to do so in accordance with international law of the sea; and receiving or assuming responsibility for their ships and smuggled aliens;

8. Urges port States to apply the relevant provisions of the International Convention of 1960 or 1974 or the Protocol of 1978 to prevent a foreign flag ship carrying passengers from sailing when the condition of the ship or its equipment is not in compliance with the requirements of the Conventions and the ship's safety certificate issued in accordance with the Conventions, and to inform the flag State and the International Maritime Organization of the relevant facts;

9. Emphasizes that international efforts to prevent alien smuggling are not intended to inhibit legal migration or freedom of travel or to undercut the protection provided by international law to refugees;

10. Reaffirms the need to observe fully international and national law in dealing with alien smuggling, including the provision of humane treatment and strict observance of all human rights of migrants;

11. Requests that relevant specialized agencies and intergovernmental organizations, in particular the International Organization for Migration, the International Maritime Organization, the International Criminal Police Organization and the International Civil Aviation Organization consider ways and

means, within their respective spheres of competence, to enhance international cooperation to combat alien smuggling;

12. Requests the Commission on Crime Prevention and Criminal Justice to consider giving special attention to the question of alien smuggling at its third session, to be held in 1994, in order to encourage international cooperation to address this problem within the framework of its mandate;

13. Requests the Secretary-General to transmit the text of the present resolution to all Member States and to relevant specialized agencies and intergovernmental organizations.